

**EDUCATION DEPARTMENT[281]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to rescind Chapter 63, “Educational Programs and Services for Pupils in Juvenile Homes,” and to adopt new Chapter 63, “Funding for Instructional Programs for Children Residing in Juvenile Homes,” Iowa Administrative Code.

The provision of instructional programs for children residing in juvenile homes is the responsibility of the area education agency (AEA) in which the juvenile home is located. The Department proposes to adopt a new Chapter 63 to align the review of instructional programs in juvenile homes more closely with the existing accreditation process for area education agencies (AEAs) and the programs for which AEAs are responsible. By incorporating review processes that already exist into the new chapter, the Department has removed duplicative administrative and data burdens. In addition, the funding of these programs has been made more parallel to the funding of instructional programs offered to children who reside in state institutions or mental health institutions as provided in 281—Chapter 34.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed rules on or before March 13, 2012, at 4:30 p.m. Comments on the proposed rules should be directed to Jeff Berger, Deputy Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3968; E-mail [jeff.berger@iowa.gov](mailto:jeff.berger@iowa.gov); or fax (515)242-5988.

A public hearing will be held on March 13, 2012, from 9 to 10 a.m. in the State Board Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who desires to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, may advise the Department of Education of specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code sections 256.7(10), 273.2, 273.3, 282.30 and 282.31.

The following amendment is proposed.

Rescind 281—Chapter 63 and adopt the following **new** chapter in lieu thereof:

**CHAPTER 63  
FUNDING FOR INSTRUCTIONAL PROGRAMS FOR  
CHILDREN RESIDING IN JUVENILE HOMES**

**281—63.1(282) Scope.** These rules apply to the funding and provision of appropriate educational services to children residing in juvenile detention homes or juvenile shelter care homes.

**281—63.2(282) Definitions.** For the purposes of these rules, the following definitions shall apply:

“*AEA*” means an area education agency.

“*Aggregate days*” means the sum of the number of days of attendance, excluding days absent, for all school-age pupils who are enrolled during the school year. A student is considered enrolled after being placed in the juvenile home and taking part in the educational program. Enrollment begins on the date that the student begins taking part in the educational program and ends on the date that the student leaves the juvenile home, drops from the juvenile home educational program, is expelled from

the juvenile home educational program, or receives a high school diploma or its equivalent, whichever occurs first.

“*Average daily attendance*” or “*ADA*” means the average obtained by dividing the total of the aggregate days of attendance by the total number of student contact days. ADA for purposes of this chapter shall be calculated on the regular school year exclusive of summer session.

“*Classroom aide*” means a person who assists a teacher in the performance of instructional tasks to support and assist classroom instruction and related school activities but is not certified as a para-educator.

“*Department*” means the state department of education.

“*IEP*” means an individualized education program, as defined by rule 281—41.22(256B,34CFR300).

“*Juvenile home*” means a juvenile detention home (a physically restricting facility used only for the detention of children) approved by the department of human services or a juvenile shelter care home (a physically unrestricting facility used only for the shelter care of children) approved or licensed by the department of human services located in the state of Iowa. “*Juvenile home*” does not include those facilities that are actually operated by the department of human services.

“*Para-educator*” means a person who is certified to assist a teacher in the performance of instructional tasks to support and assist classroom instruction and related school activities.

“*Regular school year*” means the number of days that school is in session, not to exceed 180 days. The regular school year for each juvenile home shall begin on the first day of school established by the school district in which each juvenile home is located.

“*School-age*” means a student who is a resident of the state of Iowa and who is at least 5 years of age, but less than 21 years of age on September 15 of the school year, and who has not graduated from a high school program or obtained a GED. School-age includes a younger student if that student is served pursuant to an IEP.

“*Student contact days*” means the days during which the educational program is provided and students are under the guidance and instruction of the professional instructional staff.

“*Teacher*” means a licensed member of the instructional staff, as defined in Iowa Code chapter 272, who diagnoses, prescribes, evaluates, and directs student learning in a manner which is consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and who uses the student evaluation or assessment information to promote additional student learning.

## **281—63.3(273,282) General principles.**

**63.3(1) *Availability.*** All school-age children who reside in juvenile homes shall be provided appropriate educational services in accordance with these rules.

**63.3(2) *Responsibility of AEAs for educational program.*** It is the responsibility of the AEA in which the juvenile home is located to provide or make provision for appropriate educational services to children residing in these juvenile homes and to ensure appropriate transition of children back to the school district of residence. The AEA providing the educational program shall consider cost-effectiveness that minimizes the amount of funding that is taken from the school district’s state aid payments, and the educational program shall be provided pursuant to a written agreement which identifies the responsibilities of the AEA, the juvenile home, and any other agency with which the AEA contracts to provide the educational program. If the child has an IEP, the child shall be served pursuant to that IEP.

**63.3(3) *Educational plan.*** The AEA shall have a written educational plan for its juvenile home educational program that at a minimum describes:

*a.* The general education program, including content standards, benchmarks, student learning goals and all other requirements of 281—Chapter 12.

b. Special education services, including instructional, support and other services that ensure the provision of a free appropriate public education in the least restrictive environment for students with disabilities in accordance with 281—Chapter 41.

c. Procedures that will be implemented to ensure the effective transition of each child back to the school district of the child's residence.

**63.3(4) Contracting for services.** In accordance with Iowa Code section 273.2, an AEA shall contract, whenever practicable, with other school corporations for the use of personnel, buildings, facilities, supplies, equipment, programs, and services.

**63.3(5) Responsibility for AEA services.** It is the responsibility of the AEA in which the juvenile home is located to provide media services, educational services, and special education support services. These services shall be comparable in nature and extent to the services provided to school districts in the AEA. Expenditures for these services are inherent costs to the AEA programs and shall not be assessed to the juvenile home educational program.

**63.3(6) Basis for funding.** Funding for general education programs at the juvenile homes shall be determined by use of a formula which is similar to the formula used for the determination of funding for local school districts but which also takes into consideration the unique setting of the juvenile homes.

**281—63.4(273,282) Notification.** The AEA in which the juvenile home is located shall notify the district of residence of each child who on the first day in October is residing in the juvenile home. The notification shall occur no sooner than the first day in October and no later than the fifteenth day in October. The AEA shall by the last Friday in October also notify the AEA of residence and the school district of residence of each child who is served pursuant to an IEP and is residing in the juvenile home. Notifications shall be in writing or in a printable electronic medium and shall include the child's name, birth date and grade level and the names and addresses of the child's parents or guardians.

**281—63.5(282) Accounting for average daily attendance.** Each AEA shall keep for each juvenile home within the AEA a daily register that shall include the name, birth date, district of residence, attendance, and enrollment status of each student. Students who are not residents of the state of Iowa or students who are not residing in the juvenile home shall be excluded from the average daily attendance for purposes of funding under this chapter. At the end of the school year, each AEA shall calculate the average daily attendance for students participating in the juvenile home educational program. The average daily attendance shall be reported to the department by August 1 and shall separately identify students who are not residents of Iowa, students who are served pursuant to an IEP, and students who are not served pursuant to an IEP.

**281—63.6(282) Juvenile home cost per pupil.** The department shall calculate the juvenile home educational program average cost per pupil for each AEA, and a juvenile home educational program state cost per pupil, from the 2010-2011 juvenile home claim information. The department shall adjust the cost as necessary for any distorting financial transactions and for any waivers granted. The AEA's juvenile home educational program average cost per pupil will be calculated as the total expenditures for juvenile home instruction paid from the juvenile home advance funding, adjusted for distorting financial transactions and waivers and net of revenues received or that should have been received, divided by the total average daily attendance for all of the AEA's juvenile home programs. The juvenile home educational program state cost per pupil will be calculated on the sum of the adjusted total juvenile home instruction expenditures from the advance funding divided by the sum of the average daily attendance for all juvenile home instructional programs in all AEA's. Each subsequent year, the department shall calculate the allowable growth for the juvenile home educational program cost per pupil. The department shall calculate the juvenile home educational program allowable growth for a budget year by multiplying the state percent of growth for the budget year established pursuant to Iowa Code subsection 257.8(1) by the juvenile home educational program state cost per pupil for the base year. The AEA's juvenile home educational program cost per pupil shall be the sum of the allowable growth dollar amount per pupil and the AEA's juvenile home educational program cost per pupil for the

base year. If an AEA establishes a juvenile home educational program and did not have a program in the 2010-2011 school year, the AEA shall use the juvenile home educational program state cost per pupil.

**281—63.7(273,282) Budget submission.** Each AEA shall submit a juvenile home educational program budget for the following school year to the department as part of the AEA's annual budget submission. The budget shall be based on the average daily attendance of the children residing in the juvenile homes located within the AEA who are Iowa residents and of school age and for whom no other entity is required to pay tuition. The average daily attendance used for the budget shall be the average daily attendance for the school year that ended the previous June 30. If a juvenile home is no longer in operation, the average daily attendance shall be reduced for the average daily attendance of students that had resided in that juvenile home. The budget total amount shall be the average daily attendance, as adjusted, multiplied by the AEA's juvenile home cost per pupil for the budget year.

**281—63.8(282,291) Accounting for actual program costs.** Each AEA shall submit an accounting for the actual cost of the juvenile home educational program to the department by September 15 as part of the AEA's certified annual report. Funding for the juvenile home instructional program shall be used only for expenditures directly related to providing the juvenile home educational program described in the juvenile home educational program plan. Revenues, expenditures, and balances of the juvenile home educational program shall be accounted for in the manner provided in Uniform Financial Accounting for Iowa School Districts and AEAs.

**63.8(1) Fund.** Juvenile home educational programs shall be accounted for in a special revenue fund. The fund balance shall be maintained in the special revenue fund at year end, and the continuance or disposition of positive or negative fund balances shall be determined by the department.

**63.8(2) Tuition.** Tuition paid or billed or received shall be calculated as follows:

*a.* If juvenile home students not requiring special education attend a local school district other than the district of residence, tuition shall be calculated in the manner prescribed in Iowa Code section 282.24 for determining tuition costs for any nonresident student attending a local school district and shall be paid by the AEA.

*b.* Tuition for juvenile home students provided a special education program pursuant to an IEP shall be billed by the AEA and paid by the district of residence, in accordance with 281—Chapter 41 and pursuant to Iowa Code chapter 282, to the district in which the juvenile home is located or to the AEA, whichever is providing the special education program.

**63.8(3) Revenues.** Revenues received, such as grants, tuition, and categorical aid, that are related to the expenditures in the juvenile home program instruction fund shall be accounted for in the juvenile home program instruction fund.

**63.8(4) Instructional costs.** Eighty percent of the total program costs shall be expended on instruction, student support services, and instructional staff support services as defined in Uniform Financial Accounting for Iowa School Districts and AEAs. In determining the 80 percent, the costs for instruction, student support services, and instructional staff support services shall not include any personnel costs other than those for classroom teachers and classroom aides or para-educators.

**63.8(5) Unallowed costs.** Costs shall not include expenditures for debt services or for facilities acquisition and construction services including remodeling and facility repair or any costs listed in 281—subrule 98.72(3). Costs of residential, custodial, treatment, and similar services shall be provided by the juvenile home and shall not be included in the actual program costs.

**63.8(6) Summer school costs.** Summer session programs may be operated pursuant to Iowa Code subsection 282.31(5), but the costs of the program are considered to be included in the juvenile home educational program cost per pupil and not in addition to the juvenile home educational program cost per pupil.

**63.8(7) Instruction to students who are not Iowa residents.** Costs for providing instruction to students who are not residents of the state of Iowa shall be paid by the juvenile home and shall be excluded from the actual program cost calculations and from the average daily attendance calculations.

**63.8(8)** *Instruction to students not residing in the juvenile home.* Costs for providing instruction to students who are not residing in the juvenile home shall be excluded from the actual program cost calculations and from the average daily attendance calculations.

**63.8(9)** *Financial management.* The juvenile home educational program advance is categorical funding and follows the general provisions in Division I of 281—Chapter 98 and the specific provisions in rule 281—98.72(282,298A).

**281—63.9(256,282) Department review.** The department shall review all expenditures included on the budget or submitted for the claim for compliance with the guidelines adopted pursuant to Iowa Code section 256.7, subsection 10, and shall approve or modify the expenditures accordingly. Notwithstanding rule 281—63.6(256,282), if the amount of the fund balance remaining at the end of the fiscal year to be carried forward exceeds 10 percent of the total advance revenues received for that year, the department shall reduce the AEA's juvenile home educational program cost per pupil by the same percent that the fund balance exceeded 10 percent. The department shall notify the department of revenue and the department of management of the approved budget amount to be paid to each AEA. After the budget is approved, the budget will not be further adjusted until the claim is processed.

**281—63.10(282) Claim processing.** After department review pursuant to rule 281—63.9(256,282), the final cost allowed to the AEA for the claim will be the higher of the average daily attendance that was submitted for the budget or the actual average daily attendance for the claim year, multiplied by the AEA's juvenile home educational program cost per pupil for the claim year. The department shall compare the approved claim amount to any amounts paid by the department of revenue, and any differences shall be added to or subtracted from the October payment for the next school year.

**281—63.11(11,282) Audit.** Each AEA shall make the records related to providing educational services to students residing within the juvenile homes available to independent auditors, state auditors and department staff upon request.

These rules are intended to implement Iowa Code sections 256.7(10), 273.2, 273.3, 282.30 and 282.31.